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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JEFF HOHLBEIN,

Plaintiff,

v.

COLVIN OIL COMPANY, which will do
business in California as FIREBALL GAS,
an Oregon Corporation, dba SPIRIT MART,
and dba REDWOOD MINI MART, and DOES
ONE to FIFTY, inclusive,

Defendants.

Case No. C-08-2160 EMC

Civil Rights

COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES: DENIAL OF CIVIL
RIGHTS OF A DISABLED PERSON IN
VIOLATION OF THE AMERICANS WITH
DISABILITIES ACT OF 1990; VIOLATION
OF CALIFORNIA'S CIVIL RIGHTS
STATUTES

JURY TRIAL REQUESTED

Plaintiff JEFF HOHLBEIN complains of defendants COLVIN OIL COMPANY, which
will do business in California as FIREBALL GAS, an Oregon Corporation, dba SPIRIT
MART, and dba REDWOOD MINI MART, and DOES ONE to FIFTY, inclusive, and alleges
as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction of this action pursuant to 28 **USC** § 1331 for violations
of the **Americans with Disabilities Act of 1990**, (42 **USC** § 12101, *et seq.*) Pursuant to
pendant jurisdiction, attendant and related causes of action, arising from the same facts, are
also brought under California law, including, but not limited to, violations of **California Health
& Safety Code** § 19955, *et seq.*, including **California Code of Regulations**, Title 24, § 19959,

1 **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

2 2. Venue is proper in this court pursuant to 28 **USC** § 1391(b) and is founded on the
3 fact that the real property which is the subject of this action is located in this district, at
4 Crescent City, Del Norte, California, and that Plaintiff's causes of action arose in this district.

5 **INTRODUCTION**

6 3. **SPIRIT MART** is located at 317 Hwy 101 S., Crescent City, California. Said mini
7 mart and gas station is owned and operated by defendants **COLVIN OIL COMPANY** and
8 **DOES ONE to FIFTY, inclusive**.

9 4. Defendants **COLVIN OIL COMPANY** and **DOES ONE to FIFTY, inclusive**,
10 operate an establishment for services to the public and at which Defendants failed to provide
11 barrier free access to said establishment in conformity with both Federal and California legal
12 requirements. Further, Defendants failed to provide compliance as follows:

- 13 a) There is no International Symbol of Accessibility (ISA) on the gas
14 station's primary entrance doors in violation of California Title 24
§1117B.5.1, ADAAG 4.1.2 (7), 4.30.1.
- 15 b) There is no International Symbol of Accessibility (ISA) for the
16 restroom door in violation of California Title 24 §1115B.5, ADAAG
4.30.1.
- 17 c) There is no signage identifying accessible routes to the restrooms
18 in violation of California Title 24 §1117B.5.8.1.2, ADAAG 4.6.2,
4.30.6, 4.30.7.
- 19 d) The restroom door requires excessive pressure to open in violation
of California Title 24 § 1133B.2.5, ADAAG 4.13.11(b).
- 20 e) There is not adequate clear floor space to maneuver a wheelchair
21 inside of the men's restroom in violation of California Title 24
§1118B.4(2), ADAAG 4.2.4.2.
- 22 f) The paper towel dispenser and soap dispenser are too high in
23 violation of California Title 24 §1115B.9.2, ADAAG 4.27.3*.
- 24 g) The pipes under the sink are not wrapped in violation of California
Title 24 §1115B.1, California Plumbing Code §1504.2.1, ADAAG
4.19.4.
- 25 h) The restroom mirror is more than 40" above the finished floor in
26 violation of California Title 24 §1115B.9.1(2), ADAAG 4.19.6*.
- 27 i) There are no grab bars beside and behind the toilet in violation of
28 California Title 24 §1115B.8, ADAAG 4.16.4.

- j) The toilet paper dispenser is too far to reach in violation of California Title 24 §1115B.9.3, ADAAG 4.16.6.
- k) The restroom door hardware requires a tight grasping, pinching or twisting to operate in violation of California Title 24 §1133B.2.5.2, ADAAG 4.13.9*.

The above barriers interfered with Plaintiff's access of the facilities and continue to deter Plaintiff from visiting said facilities, and as a legal result, Plaintiff **JEFF HOHLBEIN** suffers violations of his civil rights to full and equal enjoyment of goods, services, facilities and privileges, and has and will suffer embarrassment and humiliation.

FACTUAL ALLEGATIONS

5. Plaintiff **JEFF HOHLBEIN** is, and at all times relevant to this Complaint is, a "physically handicapped person," "physically disabled person," and a "person with a disability," as these terms are used under California law and under federal laws including, but not limited to, Title III of the ***Americans with Disabilities Act of 1990***. (The terms "physically handicapped person," "physically disabled person," and a "person with a disability" will be used interchangeably throughout this Complaint.) Plaintiff is a "person with a disability," as defined by all applicable California and United State's laws. Plaintiff **JEFF HOHLBEIN** is severely limited in the use of his legs.

6. Defendants **COLVIN OIL COMPANY** and **DOES ONE to FIFTY, inclusive**, at all times relevant herein were and are the owners and operators; lessors and/or lessees, franchisers and/or franchisees, of public facilities known as the "**SPIRIT MART**," located at Crescent City, California, subject to the requirements of California state law requiring full and equal access to public facilities pursuant to ***California Health & Safety Code*** § 19955, *et seq.*, ***California Civil Code*** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55, and subject to Title III of the ***Americans with Disabilities Act of 1990***, and to all other legal requirements referred to in this Complaint. Plaintiff does not know the relative responsibilities of defendants in the operation of the facilities herein complained of, and alleges a joint venture and common enterprise by all such defendants.

7. Defendants **COLVIN OIL COMPANY** and **DOES ONE to FIFTY, inclusive** (hereinafter alternatively referred to collectively as "defendants"), at all times relevant herein

1 were and are owners, possessors, builders and keepers of the "**SPIRIT MART**" in Crescent
2 City, California.

3 8. Defendants **COLVIN OIL COMPANY and DOES ONE to FIFTY, inclusive** are
4 the owners and operators of the subject "**SPIRIT MART**" at all times relevant to this Complaint.
5 Plaintiff is informed and believes that each of the defendants herein is the agent, employee or
6 representative of each of the other defendants, and performed all acts and omissions stated
7 herein within the scope of such agency or employment or representative capacity and is
8 responsible in some manner for the acts and omissions of the other defendants in legally
9 causing the damages complained of herein, and have approved or ratified each of the acts or
10 omissions of each other defendant, as herein described.

11 9. Plaintiff **JEFF HOHLBEIN** does not know the true names and capacities of
12 defendants **COLVIN OIL COMPANY and DOES ONE to FIFTY, inclusive**, their business
13 capacities, their ownership connection to the property and business, nor their relative
14 responsibilities in causing the access violations herein complained of, and alleges a joint
15 venture and common enterprise by all such defendants. Plaintiff is informed and believes that
16 each of the defendants herein, including DOES ONE to FIFTY, inclusive, is the agent,
17 ostensible agent, master, servant, employer, employee, representative, franchiser, franchisee,
18 joint venturer, partner, and associate, or such similar capacity, of each of the other defendants,
19 and was at all times acting and performing, or failing to act or perform, with the authorization,
20 consent, permission or ratification of each of the other defendants, and is responsible in some
21 manner for the acts and omissions of the other defendants in legally causing the violations and
22 damages complained of herein, and have approved or ratified each of the acts or omissions of
23 each other defendant, as herein described. Plaintiff will seek leave to amend this Complaint
24 when the true names, capacities, connections and responsibilities of defendants **COLVIN OIL**
25 **COMPANY and DOES ONE to FIFTY, inclusive**, are ascertained.

26 10. Plaintiff is informed and believes that all named defendants, including DOES
27 ONE to FIFTY, inclusive, conspired to commit the acts described herein, or alternatively, aided
28 and abetted one another in the performance of the wrongful acts hereinafter alleged.

11. Defendants **COLVIN OIL COMPANY** and **DOES ONE to FIFTY, inclusive**, are the owners and operators of the "**SPIRIT MART**," located at Crescent City, California. This mini mart and gas station, including, but not limited to, parking spaces and access aisles and access routes, are each a part of a "public accommodation or facility" subject to the requirements of **California Health & Safety Code** § 19955, *et seq.*, and of **California Civil Code** §§ 51, 52(a), 54, 54.1, *et seq.* On information and belief, this "**SPIRIT MART**" mini mart and gas station was constructed after 1990, which has subjected the "**SPIRIT MART**" mini mart and gas station to handicapped access requirements per **California Health & Safety Code** § 19959, and applicable portions of **California Code of Regulations**, Title 24, (the State Building Code).

12. On or about March 20, 2008, Plaintiff **JEFF HOHLBEIN**, visited the "**SPIRIT MART**" in Crescent City, California for the purpose of purchasing gas and food supplies. Defendants **COLVIN OIL COMPANY** and **DOES ONE to FIFTY, inclusive**, interfered with Plaintiff's access to the "**SPIRIT MART**" as set forth in Paragraph 4 above.

Said acts and omissions denied Plaintiff legal handicapped access to the "**SPIRIT MART**" according to federal and state law.

13. Plaintiff's home, in Portland, Oregon, California, is approximately 338 miles from the "**SPIRIT MART**" in Crescent City, California. Plaintiff travels regularly to Crescent City for pleasure and business. Plaintiff intends to return to "**SPIRIT MART**" in Crescent City, California when this public accommodation is made accessible.

14. Plaintiff encountered and/or is informed and believes that the following architectural barriers, which violate the requirements of the **California Code of Regulations** Title 24 and **ADAAG**, existed and continue to exist thereby denying Plaintiff and those similarly situated full and equal access to the subject public facility as set forth in Paragraph 4 above.

15. Defendants, and each of them, discriminated against Plaintiff **JEFF HOHLBEIN** on the basis of his physical disability, and interfered with his access to the "**SPIRIT MART**" establishment, in violation of both California law including, but not limited to, **California Civil Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the "Prohibition of Discrimination"

1 provision and §503, the “Prohibition Against Retaliation or Coercion” provision of the
 2 ***Americans with Disabilities Act of 1990***.

3 16. As a result of the actions and failure to act of defendants, and each of them, and
 4 as a result of the failure to provide appropriate accessible parking, proper signage, proper
 5 accessible entryways, and accessible accommodations for a mini mart and gas station,
 6 Plaintiff **JEFF HOHLBEIN** suffered and will suffer a loss of his civil rights to full and equal
 7 access to public facilities, and further suffered and will suffer emotional distress, mental
 8 distress, mental suffering, mental anguish, which includes shame, humiliation, embarrassment,
 9 anger, chagrin, disappointment and worry, expectedly and naturally associated with a person
 10 with a physical disability being denied access to a public accommodation, all to his damages
 11 as prayed hereinafter in an amount within the jurisdiction of this court.

12 **I. FIRST CAUSE OF ACTION:**

13 VIOLATION OF ***THE AMERICANS WITH DISABILITIES ACT OF 1990***
 14 (42 **USC** §12101 *et seq.*)

15 17. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
 16 the allegations contained in paragraphs 1 through 16 of this Complaint and incorporates them
 17 herein as if separately replied.

18 18. Pursuant to law, in 1990 the United States Congress made findings per 42 **USC**
 19 §12101 regarding persons with physical disabilities, finding that laws were needed to more fully
 20 protect 43 million Americans with one or more physical or mental disabilities; [that] historically
 21 society has tended to isolate and segregate individuals with disabilities; [that] such forms of
 22 discrimination against individuals with disabilities continue to be a serious and pervasive social
 23 problem; [that] the nation’s proper goals regarding individuals with disabilities are to assure
 24 equality of opportunity, full participation, independent living and economic self-sufficiency for
 25 such individuals; [and that] the continuing existence of unfair and unnecessary discrimination
 26 and prejudice denies people with disabilities the opportunity to compete on an equal basis and
 27 to pursue those opportunities for which our free society is justifiably famous.

28 19. Congress stated as its purpose in passing the ***Americans with Disabilities Act***
of 1990 (42 **USC** § 12102):

It is the purpose of this act (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; (3) to ensure that the Federal government plays a central role in enforcing the standards established in this act on behalf of individuals with disabilities; and (4) to invoke the sweep of Congressional authority, including the power to enforce the 14th Amendment and to regulate commerce, in order to address the major areas of discrimination faced day to day by people with disabilities.

20. As part of the ***Americans with Disabilities Act of 1990***, Public Law 101-336 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and Services Operated by Private Entities" (42 **USC** § 12181 *et seq.*). Among the public accommodations identified for purposes of this title were "a bakery, grocery store, . . . or other sales or rental establishment; a laundromat, . . . gas station, . . . or other service establishment;. . ."

21. Pursuant to 42 **USC** § 12182,

"No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."

22. Among the general prohibitions against discrimination were included in 42 **USC** §12182(b)(1)(A)(i):

Denial of participation. It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

23. Among the general prohibitions against discrimination were included in 42 **USC** §12182(b)(1)(E):

Association -- It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

The acts of defendants set forth herein were a violation of Plaintiff's rights under the ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36 *et seq.*

24. Among the general prohibitions against discrimination were included in 42 **USC**

§ 12182(b)(2)(A)(i) and 42 **USC** § 12182(b)(2)(A)(ii):

Discrimination. For purposes of subsection (a), discrimination includes -

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

25. Plaintiff alleges that constructing the eligibility requirements, policies, practices and procedure for entry to the "**SPIRIT MART**" facility by persons with disabilities and their companions as established by the defendants can be simply modified to eliminate disparate and discriminatory treatment of persons with disabilities by properly constructing barrier free handicapped access for safe and full and equal enjoyment of the "**SPIRIT MART**" as that enjoyed by other people.

26. The specific prohibition against retaliation and coercion is included in the **Americans With Disabilities Act of 1990** § 503(b) and the *Remedies and Procedures* in § 503(c):

(b) Interference, Coercion, or Intimidation. - It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) Remedies and Procedure. - The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to Title I, Title II and Title III, respectively.

27. Among the specific prohibitions against discrimination were included, in 42 **USC** § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and communications barriers that are structural in nature, in existing facilities...where such removal is readily achievable;" and (v) "where and entity can demonstrate that the removal of a barrier under clause (iv) is not

1 readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or
 2 accommodations available through alternative methods if such methods are readily
 3 achievable.” The acts of Defendants set forth herein were a violations of Plaintiff’s rights under
 4 the “ADA,” Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36,
 5 *et seq.*

6 28. The removal of the barriers complained of by Plaintiff as hereinabove alleged
 7 were at all times after 1990 “readily achievable.” On information and belief, if the removal of all
 8 the barriers complained of here together were not “readily achievable,” the removal of each
 9 individual barrier complained of herein was “readily achievable.”

10 29. Per 42 **USC** § 12181(9), “The term ‘readily achievable’ means easily
 11 accomplishable and able to be carried out without much difficulty or expense.” The statute and
 12 attendant regulations define relative “expense” in relation to the total financial resources of the
 13 entities involved, including any “parent” companies. Plaintiff alleges that properly repairing
 14 each of the items that Plaintiff complains of herein is readily achievable, including, but not
 15 limited to, correcting and repairing the items set forth in Paragraph 4 above.

16 The changes needed to remove barriers to access for the disabled were and are
 17 “readily achievable” by the defendants under standards set forth under 42 **USC** § 12181 of the
 18 ***Americans with Disabilities Act of 1990***. (Further, if it was not “readily achievable” for
 19 defendants to remove all such barriers, defendants have failed to make the required services
 20 available through alternative methods, although such methods are achievable as required by
 21 42 **USC** §12181(b)(2)(a)(iv), (v).)

22 30. Pursuant to the ***Americans with Disabilities Act of 1990***, §308 (42 **USC** §
 23 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the ***Civil Rights***
 24 ***Act of 1964*** §204(a), (42 **USC** § 2000a-3(a)), as Plaintiff is being subjected to discrimination
 25 on the basis of disability in violation of this title and/or Plaintiff has reasonable grounds for
 26 believing that he is about to be subjected to discrimination in violation of ***Americans With***
 27 ***Disabilities Act of 1990*** §302. Plaintiff cannot return to or make use of the public facilities
 28 complained of herein for the purpose of entry and provision of goods and service so long as

defendants continue to apply eligibility criteria, policies, practices and procedures to screen out and refuse to allow entry and service to persons with disabilities such as Plaintiff's.

31. Defendants', and each of their acts and omissions of failing to provide barrier free handicapped access for Plaintiff, were tantamount to interference, coercion or intimidation pursuant to **Americans With Disabilities Act of 1990** §503(b) (now 42 **USC** § 12203):

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

32. Per **Americans With Disabilities Act of 1990** § 308(a)(1) (now 42 **USC** § 12188), "Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions." Pursuant to this last section, Plaintiff, on information and belief, alleges that defendants have continued to violate the law and deny the rights of Plaintiff and other disabled persons to access this public accommodation for the purpose of purchasing gas and food supplies. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),

"...Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modifications of a policy, or provision of alternative methods, to the extent required by this title."

33. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the **Civil Rights Act of 1964** (42 **USC** § 2000a-3(a), and pursuant to federal regulations adopted to implement the **Americans with Disabilities Act of 1990**, including, but not limited to, an order granting injunctive relief and attorneys' fees. Such attorneys' fees, "including litigation expenses and costs," are further specifically provided for by §505 of Title III.

WHEREFORE, Plaintiff prays for damages as hereinafter stated.

II. SECOND CAUSE OF ACTION

BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH PHYSICAL DISABILITIES (**California Health & Safety Code** § 19955, *et seq.*)

34. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in paragraphs 1 through 33 of this Complaint and incorporate them

1 herein as if separately replied.

2 35. **California Health & Safety Code** § 19955 provides in pertinent part:

3 The purpose of this part is to insure that public accommodations or
4 facilities constructed in this state with private funds adhere to the provisions of
5 Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
6 *Government Code*. For the purposes of this part “public accommodation or
7 facilities” means a building, structure, facility, complex, or improved area which is
8 used by the general public and shall include auditoriums, hospitals, theaters,
9 restaurants, hotels, motels, stadiums, and convention centers. When sanitary
10 facilities are made available for the public, clients or employees in such
11 accommodations or facilities, they shall be made available for the handicapped.

12 36. **California Health & Safety Code** § 19956, which appears in the same chapter
13 as §19955, provides in pertinent part, “accommodations constructed in this state shall conform
14 to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
15 *Government Code*...” **California Health & Safety Code** § 19956 was operative July 1, 1970,
16 and is applicable to all public accommodations constructed or altered after that date. On
17 information and belief, portions of “**SPIRIT MART**” and/or of its buildings, were constructed
18 and/or altered after July 1, 1970, and substantial portions of said building had alterations,
19 structural repairs, and/or additions made to such public accommodations after July 1, 1970,
20 thereby requiring said public accommodations and/or buildings to be subject to the
21 requirements of Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, upon such
22 alteration, structural repairs or additions per **California Health & Safety Code** § 19959.

23 37. Pursuant to the authority delegated by **California Government Code** § 4450, *et*
24 *seq.*, the State Architect promulgated regulations for the enforcement of these provisions.
25 Effective January 1, 1982, Title 24 of the **California Administrative Code** adopted the
26 California State Architect’s Regulations and these regulations must be complied with as to any
27 alterations and/or modifications of the “**SPIRIT MART**” occurring after that date. Construction
28 changes occurring prior to this date but after July 1, 1970 triggered access requirements
pursuant to the “ASA” requirements, the **American Standards Association Specifications**,
A117.1-1961. On information and belief, at the time of the construction and modification of
said building, all buildings and facilities covered were required to conform to each of the
standards and specifications described in the **American Standards Association**

1 **Specifications** and/or those contained in Title 24 of the **California Administrative Code**,
2 (now known as Title 24, **California Code of Regulations**.)

3 38. Public facilities, such as “**SPIRIT MART**” are public accommodations or facilities
4 within the meaning of **California Health & Safety Code** § 19955, *et seq.*

5 39. It is difficult or impossible for persons with physical disabilities who use
6 wheelchairs, canes, walkers and service animals to travel about in public to use a mini mart
7 and gas station with the defects set forth in Paragraph 4 above as required by Title 24 of the
8 **California Code of Regulations** and the **Americans with Disabilities Act Access**
9 **Guidelines (ADAAG)**. Thus, when public accommodations fail to provide handicap accessible
10 public facilities, persons with physical disabilities are unable to enter and use said facilities,
11 and are denied full and equal access to and use of that facility that is enjoyed by other
12 members of the general public.

13 40. Plaintiff **JEFF HOHLBEIN** and other similarly situated persons with physical
14 disabilities whose physical conditions require the use of wheelchairs, canes, walkers and
15 service animals are unable to use public facilities on a “full and equal” basis unless each such
16 facility is in compliance with the provisions of the **California Health & Safety Code** § 19955,
17 *et seq.* Plaintiff is a member of that portion of the public whose rights are protected by the
18 provisions of **California Health & Safety Code** § 19955, *et seq.*

19 41. The **California Health & Safety Code** was enacted “[t]o ensure that public
20 accommodations or facilities constructed in this state with private funds adhere to the
21 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the *Government*
22 *Code*.” Such public accommodations are defined to include mini mart and gas stations.

23 42. Plaintiff is further informed and believes that as of the date of filing this
24 Complaint, Defendants have not made accessible the facilities at the subject mini mart and gas
25 station as set forth in Paragraph 4 above.

26 43. Plaintiff **JEFF HOHLBEIN** is informed and believes, and therefore alleges, that
27 Defendants **COLVIN OIL COMPANY** and **DOES ONE to FIFTY, inclusive**, and each of them,
28 caused the subject buildings constituting “**SPIRIT MART**” to be constructed, altered and

1 maintained in such a manner that persons with physical disabilities were denied full and equal
2 access to, within and throughout said buildings and were denied full and equal use of said
3 public facilities, and despite knowledge and actual and constructive notice to such Defendants
4 that the configuration of the mini mart and gas station and/or buildings was in violation of the
5 civil rights of persons with physical disabilities, such as Plaintiff. Such construction,
6 modification, ownership, operation, maintenance and practices of such public facilities are in
7 violation of law as stated in Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, and
8 elsewhere in the laws of California.

9 44. On information and belief, the subject building constituting the public facilities of
10 “**SPIRIT MART**” denied full and equal access to Plaintiff and other persons with physical
11 disabilities in other respects due to non-compliance with requirement of Title 24 of the
12 **California Code of Regulations** and **California Health & Safety Code** § 19955, *et seq.*

13 45. The basis of Plaintiff’s aforementioned information and belief is the various
14 means upon which Defendants must have acquired such knowledge, including, but not limited
15 to, this lawsuit, other access lawsuits, communications with operators of other mini mart and
16 gas stations and other property owners regarding denial access, communications with Plaintiff
17 and other persons with disabilities, communications with other patrons who regularly visit
18 there, communications with owners of other businesses, notices and advisories they obtained
19 from governmental agencies through the mails, at seminars, posted bulletins, television, radio,
20 public service announcements, or upon modification, improvement, alteration or substantial
21 repair of the subject premises and other properties owned by these Defendants, newspaper
22 articles and trade publications regarding the **Americans with Disabilities Act of 1990** and
23 other access law, and other similar information. The scope and means of the knowledge of
24 each defendant is within each defendant’s exclusive control and cannot be ascertained except
25 through discovery.

26 46. As a result of Defendants’ acts and omissions in this regard, Plaintiff has been
27 required to incur legal expenses and hire attorneys in order to enforce his civil rights and
28 enforce provisions of the law protecting access for persons with physical disabilities and

1 prohibiting discrimination against persons with physical disabilities, and to take such action
2 both in his own interests and in order to enforce an important right affecting the public interest.
3 Plaintiff, therefore, seeks damages in this lawsuit for recovery of all reasonable attorneys' fees
4 incurred, pursuant to the provisions of the **California Code of Civil Procedure** § 1021.5.
5 Plaintiff additionally seeks attorneys' fees pursuant to **California Health & Safety Code** §
6 19953 and **California Civil Code** §§ 54.3 and 55.

7 47. Defendants, and each of them, at times prior to and including March 20, 2008,
8 and continuing to the present time, knew that persons with physical disabilities were denied
9 their rights of equal access to all portions of this public facility. Despite such knowledge,
10 Defendants failed and refused to take steps to comply with the applicable access statutes; and
11 despite knowledge of the resulting problems and denial of civil rights thereby suffered by
12 Plaintiff **JEFF HOHLBEIN** and other similarly situated persons with disabilities, including the
13 specific notices referred to in paragraph 43 of this Complaint. Defendants have failed and
14 refused to take action to grant full and equal access to persons with physical disabilities in the
15 respects complained of hereinabove. Defendants and each of them have carried out a course
16 of conduct of refusing to respond to, or correct complaints about, denial of handicap access.
17 Such actions and continuing course of conduct by Defendants, evidence despicable conduct in
18 conscious disregard for the rights or safety of Plaintiff and of other similarly situated persons,
19 justifying an award of treble damages pursuant to **California Civil Code** § 54.3.

20 48. Defendants' actions have also been oppressive to persons with physical
21 disabilities and of other members of the public, and have evidenced actual or implied malicious
22 intent toward those members of the public, such as Plaintiff and other persons with physical
23 disabilities who have been denied the proper access they are entitled to by law. Further,
24 Defendants' refusals on a day-to-day basis to correct these problems evidence despicable
25 conduct in conscious disregard for the rights of Plaintiff and other members of the public with
26 physical disabilities.

27 49. Plaintiff prays for an award of treble damages against Defendants, and each of
28 them, pursuant to **California Civil Code** § 54.3 in an amount sufficient to make a more

1 profound example of Defendants and discourage owners, operators, franchisers and
 2 franchisees of other public facilities from willful disregard of the rights of persons with physical
 3 disabilities.

4 50. As a result of the actions and failure of Defendants, and each of them, and as a
 5 result of the failure to provide proper accessible public facilities, Plaintiff **JEFF HOHLBEIN** was
 6 denied his civil rights, including his right to full and equal access to public facilities, was
 7 embarrassed and humiliated, suffered physical, psychological and mental injuries and
 8 emotional distress, mental distress, mental suffering, mental anguish, which includes shame,
 9 humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and
 10 naturally associated with a person with a physical disability being denied access to a public
 11 accommodation.

12 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

13 **III. THIRD CAUSE OF ACTION**

14 VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS
 15 (***California Civil Code*** §§ 54, 54.1 and 54.3)

16 51. Plaintiff repleads and incorporates by reference as if fully set forth again herein,
 17 the allegations contained in paragraphs 1 through 50 of this Complaint and incorporates them
 18 herein as if separately repled.

19 52. The public facilities above-described constitute public facilities and public
 20 accommodations within the meaning of ***California Health & Safety Code*** § 19955 *et seq.* and
 21 were facilities to which members of the public are invited. The aforementioned acts and
 22 omissions of defendants, and each of them, constitute a denial of equal access to and use and
 23 enjoyment of these facilities by persons with disabilities, including Plaintiff **JEFF HOHLBEIN**.
 24 Said acts and omissions are also in violation of provisions of Title 24 of the ***California Code of Regulations***.

25 53. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the
 26 denial by defendants of such rights and entitlements are set forth in ***California Civil Code*** §§
 27 54, 54.1 and 54.3, to wit:

28 Individuals with disabilities shall have the same right as the...general

1 public to full and free use of the streets, highways, sidewalks, walkways, public
2 buildings, public facilities, and other public places. **California Civil Code** §
3 54(a).

4 Individuals with disabilities shall be entitled to full and equal access, as
5 other members of the general public, to accommodations, advantages, facilities,
6 and privileges of all common carriers, airplanes, motor vehicles, railroad trains,
7 motor buses, streetcars, boats, or any other public conveyances or modes of
8 transportation (whether private, public, franchised, licensed, contracted, or
9 otherwise provided), telephone facilities, adoption agencies, private schools,
10 hotels, lodging places, places of public accommodation, amusement or resort,
11 and other places to which the general public is invited, subject only to the
12 conditions and limitations established by law, or state or federal regulation, and
13 applicable alike to all persons. **California Civil Code** § 54.1(a).

14 54. On or about March 20, 2008, Plaintiff **JEFF HOHLBEIN** suffered violations of
15 **California Civil Code** §§ 54 and 54.1 in that he was denied full and equal enjoyment of the
16 goods, services, facilities and privileges of said **SPIRIT MART**, as set forth in paragraph 4
17 above.

18 Plaintiff was also denied full and equal access to other particulars, including, but not
19 limited to, those described hereinabove. Plaintiff was also denied use of facilities that he was
20 entitled to under Title III of the **Americans with Disabilities Act of 1990**.

21 55. As a result of the denial of full and equal enjoyment of the goods, services,
22 facilities and privileges of defendants' **SPIRIT MART** due to the acts and omissions of
23 defendants, and each of them, in owning, operating and maintaining this subject public facility,
24 Plaintiff suffered violations of his civil rights, including, but not limited to, rights under
25 **California Civil Code** §§ 54, 54.1, and 54.3, and has and will suffer physical injury, emotional
26 distress, mental distress, mental suffering, mental anguish, which includes shame, humiliation,
27 embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally
28 associated with a disabled person's denial of full and equal enjoyment of goods, services,
privileges, etc. all to his damages as prayed hereinafter in an amount within the jurisdiction of
the court. Defendants' actions and omissions to act constituted discrimination against Plaintiff
on the sole basis that Plaintiff was physically disabled.

56. Plaintiff seeks damages for the violation of his rights as a disabled person on or
about March 20, 2008, according to proof, pursuant to **California Civil Code** § 54.3, including

1 a trebling of all statutory and actual damages, general and special, available pursuant to
2 **California Civil Code** § 54.3(a).

3 57. As a result of defendants' acts and omissions in this regard, Plaintiff **JEFF**
4 **HOHLBEIN** has been required to incur legal expenses and hire attorneys in order to enforce
5 his rights and enforce provisions of the law protecting the full and equal enjoyment of goods,
6 services, facilities, privileges of public facilities by the disabled, and those individuals
7 associated with or accompanied by a person with disabilities, and prohibiting discrimination
8 against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all reasonable
9 attorneys' fees incurred pursuant to the provisions of **California Civil Code** § 55. Additionally,
10 Plaintiff's lawsuit is intended not only to obtain compensation for damages to Plaintiff, but also
11 to compel the defendants to make their goods, services, facilities and privileges available and
12 accessible to all members of the public with physical disabilities, justifying public interest
13 attorneys' fees pursuant to the provisions of **California Code of Civil Procedure** § 1021.5.

14 58. The acts and omissions of defendants in failing to provide the required
15 accessible facilities subsequent to the enactment date and compliance date of the **Americans**
16 **with Disabilities Act of 1990**, and refusal to make remedial modifications and alterations to its
17 handicapped parking, handicapped signage, pathways, and other elements as hereinabove
18 stated, after being notified by patrons before and after the time of Plaintiff's visit and injuries,
19 on or about March 20, 2008, and all times prior thereto with the knowledge that persons with
20 disabilities would enter defendants' premises, the reason given therefor, was an established
21 policy, practice and procedure of refusing and denying entry, thereby denying services to a
22 person with disabilities and the companions thereof, evidence malice and oppression toward
23 Plaintiff and other disabled persons.

24 59. Plaintiff seeks injunctive relief pursuant to **California Civil Code** § 55 to require
25 Defendants to comply with federal and state access regulations.

26 60. Defendants have failed to establish a nondiscriminatory criteria, policy, practice
27 and procedure for entry into said "**SPIRIT MART**" as hereinabove described.

28 61. As a result of defendants' continuing failure to provide for the full and equal

1 enjoyment of goods, services, facilities and privileges of said "**SPIRIT MART**" as hereinabove
2 described, Plaintiff has continually been denied his rights to full and equal enjoyment of the
3 subject mini mart and gas station, as it would be a "futile gesture" to attempt to patronize said
4 "**SPIRIT MART**" with the discriminatory policy in place as hereinabove described.

5 62. The acts and omissions of defendants as complained of herein in failing to
6 provide the required accessible facilities subsequent to the enactment date and compliance
7 date of the ***Americans with Disabilities Act of 1990*** and refusal to make remedial
8 modifications and alternations to the architectural barriers as stated herein and in failing to
9 establish practices, policies and procedures to allow safe access by persons who are disabled
10 are continuing on a day-to-day basis to have the effect of wrongfully and willfully excluding
11 Plaintiff and other members of the public who are physically disabled, from full and equal
12 enjoyment of the subject "**SPIRIT MART**" as hereinabove described. Such acts and omissions
13 are the continuing cause of humiliation and mental and emotional suffering of Plaintiff in that
14 these actions continue to treat Plaintiff as an inferior and second class citizen and serve to
15 discriminate against him on the sole basis that he is physically disabled. Plaintiff is unable, so
16 long as such acts and omissions of defendants continue, to achieve full and equal enjoyment
17 of the goods and services of said "**SPIRIT MART**" as described hereinabove. The acts of
18 defendants have legally caused and will continue to cause irreparable injury to Plaintiff if not
19 enjoined by this court.

20 63. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any
21 continuing refusal by defendants to permit entry to said "**SPIRIT MART**" and to serve Plaintiff
22 or others similarly situated, and to require defendants to comply forthwith with the applicable
23 statutory requirements relating to the full and equal enjoyment of goods and services as
24 described hereinabove for disabled persons. Such injunctive relief is provided by ***California***
25 ***Civil Code*** § 55. Plaintiff further requests that the court award statutory costs and attorneys'
26 fees to Plaintiff pursuant to ***California Civil Code*** § 55 and ***California Code of Civil***
27 ***Procedure*** § 1021.5, all as hereinafter prayed for.

28 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys' fees

1 and costs of suit, as allowed by statute and according to proof.

2 **IV. FOURTH CAUSE OF ACTION**
 3 VIOLATIONS OF **UNRUH CIVIL RIGHTS ACT**
 4 (**California Civil Code** §§ 51 and 51.5)

5 64. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
 6 the allegations contained in paragraphs 1 through 63 of this Complaint and incorporates them
 7 herein as if separately repled.

8 65. Defendants' acts and omissions as specified with regard to the discriminatory
 9 treatment of Plaintiff **JEFF HOHLBEIN** on the basis of his physical disabilities, have been in
 10 violation of **California Civil Code** §§ 51 and 51.5, the **Unruh Civil Rights Act**, and have
 11 denied to Plaintiff his rights to "full and equal accommodations, advantages, facilities,
 12 privileges or services in all business establishments of every kind whatsoever."

13 66. **California Civil Code** § 51 also provides that "[a] violation of the right of any
 14 individual under the **Americans with Disabilities Act of 1990** (Public Law 101-336) shall also
 15 constitute a violation of this section."

16 67. **California Civil Code** § 51.5 also provides that
 17 "[n]o business establishment of any kind whatsoever shall discriminate against,
 18 boycott, or blacklist, refuse to buy from, sell to, or trade with any person in this
 19 state because of the race, creed, religion, color, national origin, sex, disability of
 20 the person or of the person's partners, members, stockholders, directors,
 21 officers, managers, superintendents, agents, employees, business associates,
 22 suppliers, or customers."

23 68. As a result of the violation of Plaintiff's civil rights protected by **California Civil**
 24 **Code** §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of **California Civil Code** §
 25 52, including a trebling of actual damages (defined by **California Civil Code** § 52(h) to mean
 26 "special and general damages"), as well as reasonable attorneys' fees and costs, as allowed
 27 by statute, according to proof.

28 WHEREFORE, Plaintiff prays that this court award damages and provide relief as
 follows:

PRAYER FOR RELIEF

Plaintiff prays that this court award damages and provide relief as follows:

1. Grant injunctive relief requiring that defendants establish a non-discriminatory criteria policy, practice and procedure permitting entry into the **SPIRIT MART** in Crescent City, California, for the purpose of obtaining the goods and services accorded therein according to **California Civil Code** §§ 51, 51.5, 52, 54, 54.1, 54.3, and 55, *et seq.*, and Title III of the **Americans with Disabilities Act of 1990**, and grant injunctive relief requiring that Defendants repair and render safe to disabled persons, and otherwise make accessible, all public areas of the mini mart and gas station, including, but not limited to, each of the barriers to access identified in Paragraph 4, above, and make such facilities “readily accessible to and usable by individuals with disabilities,” according to the standards of Title 24 of the **California Administrative Code, California Health & Safety Code** § 19955 *et seq.*, and Title III of the **Americans with Disabilities Act of 1990** and the standards of **ADAAG**; and prohibiting operation of the **SPIRIT MART**, located in Crescent City, California, as a public facility until Defendants provide full and equal enjoyment of goods and services as described hereinabove to physically disabled persons, including Plaintiff;

2. General damages according to proof;

3. Statutory and “actual” damages, including general damages and special damages, according to proof, pursuant to **California Civil Code** §§ 52, and 54.3, and that these damages be trebled;

4. Prejudgment interest on all compensatory damages;

5. Remedies and Procedures available under **Americans with Disabilities Act of 1990** §§ 107, 203 and 308;

6. Award Plaintiff all litigation expenses, all costs of this proceeding and all reasonable attorneys’ fees as provided by law, including, but not limited to, those recoverable pursuant to the provisions of **California Civil Code** §§ 52, 54.3, and 55, **California Code of Civil Procedure** § 1021.5, and **Americans with Disabilities Act of 1990** §308 of Title III; and

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CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS**DEFENDANTS**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ _____ CHECK YES only if demanded in complaint:
 UNDER F.R.C.P. 23 JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD